

# United States Department of Agriculture

## FOOD AND DRUG ADMINISTRATION

### NOTICES OF JUDGMENT UNDER THE FOOD AND DRUGS ACT

[Given pursuant to section 4 of the Food and Drugs Act]

24701-24800

[Approved by the Acting Secretary of Agriculture, Washington, D. C., March 24, 1936]

**24701. Misbranding of canned peas. U. S. v. 300 Cases, et al., of Canned Peas. Consent decrees of condemnation. Product released under bond to be relabeled.** (F. & D. nos. 29175, 29252, 29311, 29312, 29324, 29332, 29554, 29562, 29563, 29581, 29599, 29622, 29661. Sample nos. 2365-A, 2366-A, 4583-A, 4747-A, 16161-A, 18833-A, 21211-A, 21212-A, 23909-A, 24145-A, 26338-A, 26748-A, 30087-A.)

These cases involved various shipments of canned soaked dry peas which were misbranded because of the design on the label depicting a dish of succulent green peas.

On November 5, 1932, the United States attorney for the Northern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 300 cases of canned peas at Toledo, Ohio. Between the dates of November 9 and December 21, 1932, libels were filed against 464½ cases of the product at St. Louis, Mo., 170 cases at Denver, Colo., 107 cases at Wichita, Kans., 296 cases at Detroit, Mich., 85 cases at Chicago, Ill., 96 cases at San Antonio, Tex., 148 cases at Newburg, N. Y., and 400 cases at Kingston, N. Y. The libels charged that the article had been shipped in interstate commerce by the Morgan Packing Co., from Austin, Ind.; that the shipments had been made on or about August 28, 1932, and at various times subsequent thereto up to and including December 10, 1932; and that it was misbranded in violation of the Food and Drugs Act. The shipments with one exception were labeled: "May-Field" [or "Indiana Brand" or "Sunny-Field Brand"] Prepared from Dry [or "Soaked"] Peas Edinburg Canning Co. \* \* \* Edinburg Indiana." One shipment was labeled in part: "Woodland Prepared from Dry Peas." The various labels all bore a prominent illustration of a dish of succulent green peas.

Joseph S. Morgan and Ivan C. Morgan, copartners, trading as the Morgan Packing Co., Austin, Ind., appeared as claimant and filed answers to the libels denying that the product was misbranded and praying its release. Amended libels were subsequently filed in all cases.

The product libeled in the Eastern District of Michigan, Northern District of Illinois, and Western District of Texas, was alleged to be misbranded in that the device of a dish of succulent green peas on the label, was false and misleading and deceived and misled the purchaser when applied to a product consisting of canned mature soaked peas. The product libeled in the Eastern District of Missouri, Northern District of Ohio, and District of Colorado, was alleged to be misbranded in that the prominent statement "Peas" and the device of a dish of succulent green peas, were false and misleading and deceived and misled the purchaser when applied to a product consisting of canned, mature, soaked dry peas. The product libeled in the District of Kansas and Southern District of New York, was alleged to be misbranded in that the design of a dish of succu-

lent green peas on the label was false and misleading and deceived and misled the purchaser when applied to canned mature soaked dry peas, and in that the first three words in the phrase "Prepared from Dry Peas" printed directly below the said device, were printed in inconspicuous type; whereas the fourth word "Peas" was printed in large prominent type, and the said phrase or statement was therefore misleading.

On May 24, 27, and 28, June 4, July 15, and August 8, 1935, the claimants having filed amended answers admitting the allegations of the amended libels, and having consented to the entry of decrees, judgments of condemnation were entered and it was ordered that the product be released under bond conditioned that it be relabeled under the supervision of this Department.

W. R. GREGG, *Acting Secretary of Agriculture.*

**24702. Adulteration and misbranding of coffee and chicory. U. S. v. Nicholas F. Cassino (Cassino Coffee Co.).** Plea of guilty. Fine, \$50. (F. & D. no. 31427. Sample no. 33633-A.)

This case was based on a shipment of coffee and chicory which contained added undeclared cereal.

On June 15, 1934, the United States attorney for the Southern District of Mississippi, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Nicholas F. Cassino, trading as the Cassino Coffee Co., Vicksburg, Miss., alleging shipment by said defendant in violation of the Food and Drugs Act on or about March 23, 1933, from the State of Mississippi into the State of Louisiana of a quantity of coffee and chicory which was adulterated and misbranded. The article was labeled in part: "Big Indian Coffee and Chicory Roasted and Packed By Cassino Coffee Co., Vicksburg, Mississippi."

The article was alleged to be adulterated in that cereal had been mixed and packed therewith so as to reduce and lower and injuriously affect its quality and strength, and in that cereal had been substituted in part for coffee and chicory, which the article purported to be.

Misbranding was alleged for the reason that the statement "Coffee and Chicory", borne on the packages, was false and misleading, and for the further reason that it was labeled so as to deceive and mislead the purchaser, since it did not consist wholly of coffee and chicory, but consisted in part of cereal.

On May 21, 1935, the defendant entered a plea of guilty and the court imposed a fine of \$50.

W. R. GREGG, *Acting Secretary of Agriculture.*

**24703. Misbranding of butter. U. S. v. Chester B. McAllister and Ralph N. McAllister (McAllister Bros.).** Pleas of guilty. Fines, \$50. (F. & D. no. 32086. Sample nos. 40663-A, 40720-A.)

This case involved butter which failed to bear on the package a statement showing the quantity of the contents.

On May 7, 1934, the United States attorney for the Eastern District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Chester B. McAllister and Ralph N. McAllister, copartners trading as McAllister Bros., Marceline, Mo., alleging shipment by said defendants in violation of the Food and Drugs Act as amended on or about June 19 and July 11, 1933, from the State of Missouri into the State of Illinois of quantities of butter which was misbranded.

The article was alleged to be misbranded in that it was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

On May 27, 1935, the defendants entered pleas of guilty and the court imposed fines totaling \$50.

W. R. GREGG, *Acting Secretary of Agriculture.*

**24704. Adulteration and misbranding of coffee and chicory. U. S. v. Nicholas Cassino (Cassino Coffee Co.).** Plea of guilty. Fine, \$50. (F. & D. no. 32147. Sample no. 46291-A.)

This case was based on a shipment of coffee and chicory which contained added undeclared cereal.

On August 11, 1934, the United States attorney for the Southern District of Mississippi, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Nicholas Cassino, trading as the Cassino Coffee Co., Vicksburg, Miss., alleging shipment by said defendant in violation of the Food and Drugs Act, on or about July 6, 1933, from the State